

Serial No.: 10/718,813

REMARKS

The finality of the restriction requirement is acknowledged. Non-elected claim 27 has been canceled and applicants will rely upon the protections afforded by 35 USC 121 regarding any divisional application that may be filed.

Claims 18 to 20 and 23 have been amended and claims 21, 22, and 24 to 26 have been canceled. Thus, the claims before the Examiner are claims 18 to 20 and 23.

The independent claims have been revised to specify that the partial hydrolyzate is prepared from a composition that includes a magnesium alkoxide as the alkaline earth metal compound and a diethanolamine as an additive. Minor changes where needed have been made to have the claim preambles read in the same way.

The Examiner is thanked for indicating that claims 25 and 26 contain allowable subject matter. Those claims have been canceled as they are inconsistent with the changes now made to claim 18.

The comment regarding the listing of references in the specification is noted. The Examiner is thanked for acknowledging the Information Disclosure Statement filed with the application.

Serial No.: 10/718,813

The Examiner's comments regarding the need for the specification to refer to earlier cases and their status is acknowledged also. The Examiner is referred to the second page of the divisional application transmittal document filed November 24, 2003 at 6. where such a requested change was made.

The Examiner's comments regarding an Abstract are noted as well. Enclosed is a copy of page 8 of the Preliminary Amendment filed with the application providing a new Abstract. The Examiner is asked to contact the undersigned should anything further be required regarding changes to the specification.

The rejection of claim 18 under 35 USC 102 as anticipated by Ushifusa et al. '618, if applied to the claim as amended, is respectfully traversed. Claims 21 and 22 have been canceled, rendering the rejection thereof moot.

As indicated previously, claim 18 now specifies that the partial hydrolyzate is prepared from a composition in which a magnesium alkoxide is used as the alkaline earth metal compound and a diethanolamine is used as the additive. The advantages of using such materials is discussed in the specification at page 11, line

Serial No.: 10/718,813

17, to page 12, line 15. These advantages include formation of a very stable solution in an organic solvent, hydrolysis can proceed in a rate-controlling manner rather than in an instantaneous manner, and formation of sol particles that are uniform and very small. There is no teaching or suggestion in the reference of the use of a diethanolamine additive or the advantages to be derived therefrom and the rejection should be withdrawn.

The rejection of claims 18 to 24 under 35 USC 103 as unpatentable over Aboelfotoh '303 in view of Van de Leest '958, if applied to the claims as amended, is also respectfully traversed.

The Examiner's detailed analysis of the rejection at pages 5 to 9 of the Office Action is noted with appreciation. That discussion, however, does not include any statements regarding the use of a diethanolamine as an additive, as now claimed or the advantages to be derived therefrom. The Examiner states that Van de Leest '958 at column 3, line 20, describes an additive that can function to dissolve or disperse an alkaline earth compound; the indicated compound is 2-ethoxyethanol and not a diethanolamine. The former does not suggest the latter. Accordingly, it is

Serial No.: 10/718,813

believed that claims 18 to 20 and 23 patentably define over the art and the rejection should be withdrawn.

The Examiner is thanked for acknowledging applicants' claim for priority. The certified copies were submitted in the first case in this series.

In view of the foregoing revisions and remarks, it is respectfully submitted that the case is in immediate condition for allowance and a USPTO paper to those ends is earnestly solicited.

Serial No.: 10/718,813

The Examiner is requested to telephone the undersigned if additional changes are required in the case prior to allowance.

Respectfully submitted,

PARKHURST & WENDEL, L.L.P.

January 31, 2005
Date

Charles A. Wendel
Charles A. Wendel
Registration No. 24,453

CAW/ch

Enclosure:

Copy of page 8 of Preliminary Amendment
(Replacement Abstract)

Attorney Docket No. DAIN:362C

PARKHURST & WENDEL, L.L.P.
1421 Prince Street, Suite 210
Alexandria, Virginia 22314-2805
Telephone: (703) 739-0220

PLEASE ACCEPT THIS AS
AUTHORIZATION TO DEBIT
OR CREDIT FEES TO
DEP. ACCT. 16-0331
PARKHURST & WENDEL